

REMARKS

Applicants respectfully request reconsideration of the application in view of the foregoing amendments and following remarks. Claim 1 has been amended. Claims 1-6 are currently pending in this application.

Claims 1, 2 and 4-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Stevens '328.

Applicants respectfully traverse this rejection, and request reconsideration of the art. In order to support a finding of anticipation under 35 U.S.C. § 102(b), MPEP § 2131 states:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. ... The identical invention must be shown in as complete detail as is contained in the ... claim. ... The elements must be arranged as required by the claim ... .

Claim 1 recites a mixing tube body being formed to withstand the passage of a high-pressure fluid jet and a collar rigidly fixed to an outer surface of the mixing tube being sized to slide upward through a bore of a cutting head to prevent the mixing tube from being inserted any further into the bore of the cutting head.

Stevens is directed to a rotatable connector for attaching an adapter to an introducer positioned in the body of a patient. Stevens does not disclose the same invention as claimed, as suggested by the Examiner, in that it does not disclose a mixing tube for use in a high-pressure fluid jet system, the collar being sized to slide upward through a bore of a cutting head. Rather, Stevens discloses an adapter 16 having a body 18 which is provided with a compression lip 55 and a first set of threads 57. The distal end 24 of adapter 16 is coupled to housing 122 of rotation nut 48. More particularly, shaft 136 of the rotation nut 48 is advanced within compression chamber 58 of adapter 16 such that first compression lip 55 having an outer diameter that is slightly larger than the inner diameter of a second compression lip 137 becomes biased against the second compression lip 137. As additional force is applied, the second compression lip 137 expands outward to allow the first compression lip 55 to pass through the second compression lip 137. The threads 57 engage the threads 134, and rotational engagement

between the sets of threads causes the shaft 136 to advance within compression chamber 58. Stevens, column 6, line 58-column 8, line 43.

Even if, for the sake of argument, adapter 16 is equated to the mixing tube body of the present application, the compression lip 55 does not bottom out against a member in the bore of a cutting head to prevent the adapter 16 from being inserted any further into the bore, nor does it locate the adapter 16 in a final desired position for use. Rather, compression lip 55 pushes past compression lip 137, rather than bottoming out against any member within the rotation nut 48, and adapter 16 is located in its final desired position for use by the rotation of nut 48 and the engagement of threads 57 with 134, which further advances adapter 16 to its final position. Claim 1, and the claims that depend therefrom, therefore, are not anticipated by the cited reference.

The Examiner rejected claims 1 and 4-6 as being unpatentable over Chalmers '670 in view of Stevens. Applicants respectfully traverse this rejection. In order to rely on a reference under 35 U.S.C. § 103, it must be analogous prior art. In order for it to be analogous art, the reference must either be in the field of applicant's endeavor, or, if not, then be reasonably pertinent to the particular problem with which the inventor is concerned. See MPEP 2141.01(a). A device to connect a medical adapter with an introducer positioned within a patient's vascular system is not in the field of applicants' endeavor, nor is it reasonably pertinent to the problem with which the inventors of a high-pressure fluid jet system are concerned. A reference is reasonably pertinent if, it is one which because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem. This is not the case in the present application. The inventors of the present invention are dealing with high-pressure fluid jet systems, and to precisely positioning a mixing tube within a cutting head to align and form a high-pressure fluid jet. There is nothing about a medical connector for use in a patient's vasculature that would commend itself to the present inventors' attention. Applicants understand that the PTO classification is not definitive in answering the question of whether a prior art reference is analogous; however, differences in classification is some evidence of analogy, or lack thereof. Given the very different nature of the structure and function of the devices, and the associated classification, applicants respectfully submit that Stevens is not analogous art.

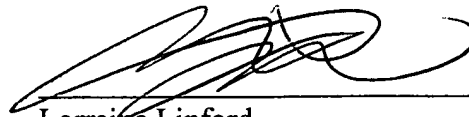
Furthermore, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Furthermore, if Stevens is combined with Chalmers, such a combination does not teach or suggest all of the claim limitations. More particularly, if Stevens was combined with Chalmers, Stevens would teach to provide a ring and threads on one member and a structure in a second member, the collar and threads being forced past the structure and the member having the ring and threads being positioned by being threaded into a final position. Neither Chalmers nor Stevens, nor a combination thereof, suggest to provide a mixing tube for use in a high-pressure fluid jet system with a collar that is sized to slide upward through a bore of a cutting head and bottom out against a member in the bore of the cutting head to prevent the mixing tube from being inserted any further into the bore of the cutting head, thereby locating the mixing tube longitudinally in a final position for use in the high-pressure fluid jet system. Claim 1, and the claims that depend therefrom, are therefore patentable over the cited art.

Applicants respectfully submit that claims 1-6 are allowable for the reasons discussed above. If questions remain, the Examiner is invited to contact the undersigned at the telephone number listed below.

Application No. 10/717,744  
Reply to Office Action dated February 15, 2005

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,  
Seed IP Law Group PLLC

A handwritten signature in black ink, appearing to be 'Lorraine Linford', written over a horizontal line.

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